HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

Misc. Appeal No. 547 OF 2005

APPELLANT
CLAIMANT

Bhagwat Suryawanshi son of Latel Suryawanshi, aged about 28 years, resident of village - Sakri, P.S. Chakarbhatha, Tah. Takhatpur, District - Bilaspur (C.G.)

Versus

RESPONDENTS

1. Safiuddin son of Sirajuddin, aged about 30 years, R/o Talapara, in from of Nurani Maszid, Tah. & District Bilaspur (C.G.).

2. Firoj Shah Son of Abdul Azim Ahmad, aged about 20 years, resident of near Bangali Hotel Jhoparapara, Bilaspur (C.G.).

3. The Branch Manager, United India Insurance Company Limited, Rajendra Nagar Chowk, Bilaspur (C.G.).

Present:
Mr.Pravin Kumar Tulsiyan, learned counsel for the appellant.

ORAL ORDER
(Passed on 2nd of December 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

This is an appeal seeking more compensation. The only contention of learned counsel for the appellant is that the MACT while assessing loss of dependency ought not to have taken notional income and should have taken the monthly income of the deceased as Rs.3,750/-, because, as a Carpenter he was earning Rs.125/- per day.

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(2) We have perused the impugned award. Though that was the claim of the appellant, he has utterly failed to produce any substantive legal evidence in support of that claim. His claim remains to be claim only without any proof. In the circumstance, we cannot take any exception to the award passed by the Tribunal in taking the notional income of the appellant for the purpose of assessing loss of dependency. Further more, it needs to be noticed that though according to the medical evidence the appellant has sustained 80% permanent disability on legs, the Tribunal has assessed loss of dependency taking the disability at 100% to the whole body without any deduction. Looking from that angle also, what has been awarded towards loss of dependency, in our considered opinion, is just and reasonable and there is no warrant for our interference. The appeal is, therefore, dismissed. There is no order as to costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Subby